

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

HANS A. QUAAK, ATTILIO PO  
and KARL LEIBINGER, on behalf of  
themselves and those similarly situated,

Plaintiffs,

v.

DEXIA BANK BELGIUM  
(formerly known as ARTESIA BANKING  
CORP., SA),

Defendants.

Civil Action No.: 03-11566 (PBS)

STONINGTON PARTNERS, INC., a Delaware  
Corporation, STONINGTON CAPITAL  
APPRECIATION 1994 FUND L.P., a Delaware  
Partnership and STONINGTON HOLDINGS,  
L.L.C., a Delaware limited liability company,

Plaintiffs,

Civil Action No.: 04-10411 (PBS)

v.

DEXIA, S.A. and DEXIA BANK BELGIUM  
(formerly known as ARTESIA BANKING  
CORP., SA),

Defendants.

GARY B. FILLER and LAWRENCE  
PERLMAN, Trustees of the TRA Rights Trust,

Plaintiffs,

Civil Action No.: 04-10477 (PBS)

v.

DEXIA, S.A. and DEXIA BANK BELGIUM  
(formerly known as ARTESIA BANKING  
CORP., SA),

Defendants.

JANET BAKER and JAMES BAKER,  
JKBAKER LLC and JMBAKER LLC,

Plaintiffs,

v.

DEXIA, S.A. and DEXIA BANK BELGIUM  
(formerly known as ARTESIA BANKING  
CORP., SA),

Defendants.

Civil Action No.: 04-10501 (PBS)

**DECLARATION OF JEFF E. BUTLER**

I, Jeff E. Butler, declare and state as follows:

1. I am an attorney associated with Clifford Chance US LLP and admitted *pro hac vice* to practice before this Court. I am fully familiar with the facts set forth herein. I submit this declaration in support of Dexia Bank Belgium's Motion for a Protective Order Limiting the Depositions of Bart Ferrand and Peter Rabaey to Two Days Each.

2. Plaintiffs initially noticed two-day depositions of Bart Ferrand and Peter Rabaey in September 2005. Attached hereto as Exhibit A is a true and correct copy of Plaintiffs' First Omnibus Notice of Depositions of Dexia Bank Belgium, dated September 15, 2005.

3. Dexia objected to these depositions on the ground that Mr. Ferrand and Mr. Rabaey are not managing agents of Dexia and cannot be subject to deposition on notice under Rule 30.

4. Plaintiffs moved to compel the depositions of, among others, Mr. Ferrand and Mr. Rabaey on March 8, 2006. This Court granted that motion as to Mr. Ferrand and Mr. Rabaey on July 10, 2006.

5. In August 2006, Dexia offered to schedule the deposition of Mr. Ferrand for September 7-8, 2006. Plaintiffs, however, declined to hold the deposition at that time because they did not want to travel to Belgium for only one deposition.

6. Dexia subsequently offered to schedule the deposition of Mr. Rabaey for October 10-11, 2006 and the deposition of Mr. Ferrand for October 12-13, 2006. Plaintiffs responded by e-mail, stating that they were available that week, but that they intended to seek the Court's permission to depose each witness for longer than two days. Attached hereto as Exhibit B is a true and correct copy of an e-mail from Patrick Egan to Jeff Butler, dated September 1, 2006.

7. Dexia responded on the same day, stating that it was not willing to schedule the depositions if Plaintiffs were planning to file a motion regarding this issue.

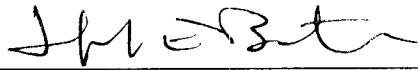
8. On September 6, 2006, Plaintiffs served an amended deposition notice, seeking four-day depositions for both Mr. Ferrand and Mr. Rabaey. Attached hereto as Exhibit C is a true and correct copy of Plaintiffs' Amended Notice of Depositions of Dexia Bank Belgium Through Peter Rabaey and Bart Ferrand, dated September 6, 2006.

9. Attached hereto as Exhibit D is a true and correct copy of a letter from Patrick Rocco to Jeff Butler, dated September 6, 2006.

10. Attached hereto as Exhibit E is a true and correct copy of an excerpt from the transcript of a scheduling conference that took place on February 13, 2003, before the Honorable Patti B. Saris in the *L&H Securities Litigation*.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated: New York, New York  
September 13, 2006



Jeff E. Butler

Exhibit A

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

HANS A. QUAAK, ATTILIO PO  
and KARL LEIBINGER, on behalf of  
themselves and those similarly situated,

Plaintiffs,

No.: 03-CV-11566 (PBS)

v.

DEXIA, S.A. and DEXIA BANK BELGIUM  
(formerly known as ARTESIA BANKING  
CORP., SA),

Defendants.

STONINGTON PARTNERS, INC., a Delaware  
Corporation, STONINGTON CAPITAL  
APPRECIATION 1994 FUND L.P., a Delaware  
Partnership and STONINGTON HOLDINGS,  
L.L.C., a Delaware limited liability company,

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DEXIA, S.A. and DEXIA BANK BELGIUM  
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DEXIA, S.A. and DEXIA BANK BELGIUM  
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Defendants.

JANET BAKER and JAMES BAKER,  
JKBAKER LLC and JMBAKER LLC,

Plaintiffs,

v.

DEXIA, S.A. and DEXIA BANK BELGIUM  
(formerly known as ARTESIA BANKING  
CORP., SA),

Defendants.

No.: 04-CV-10501 (PBS)

**PLAINTIFFS' FIRST OMNIBUS NOTICE OF DEPOSITIONS  
OF DEFENDANT DEXIA BANK BELGIUM**

**TO:** Jeff E. Butler, Esq.  
[\(Jeff.Butler@CliffordChance.com\)](mailto:Jeff.Butler@CliffordChance.com) Peter M. Saparoff, Esq.  
Clifford Chance US LLP  
31 West 52<sup>nd</sup> Street  
New York, New York 10019  
Mintz, Levin, Cohn, Ferris, Glovsky and Popeo P.C.  
One Financial Center  
Boston, Massachusetts 02111

PLEASE TAKE NOTICE that, pursuant to Rules 26 and 30 of the Federal Rules of Civil Procedure, and prior orders issued by the Court in the above-captioned actions, plaintiffs, by their undersigned counsel, will take the deposition upon oral examination of each of the following persons identified herein, before a notary public or other person authorized to administer oaths, at the location specified herein, and commencing at the date and time specified herein and continuing day to day thereafter until completion. The depositions will be recorded by stenographic and sound and visual (videotape) means. All parties are invited to attend and to participate in the manner provided for in the Federal Rules of Civil Procedure.

<b>Deponent</b>	<b>Location</b>	<b>Date and Time</b>
<b>Piet Cordonnier</b>	Marx Van Ranst Vermeersch & Partners 270 Avenue de Tervueren / Tervurenlaan 1150 Brussels Belgium	January 9-10, 2006 at 9:00 a.m.
<b>Bart Ferrand</b>	Marx Van Ranst Vermeersch & Partners 270 Avenue de Tervueren / Tervurenlaan 1150 Brussels Belgium	January 11-12, 2006 at 9:00 a.m.
<b>Peter Rabaey</b>	Marx Van Ranst Vermeersch & Partners 270 Avenue de Tervueren / Tervurenlaan 1150 Brussels Belgium	January 13-14, 2006 at 9:00 a.m.
<b>Karl Van Reit</b>	Marx Van Ranst Vermeersch & Partners 270 Avenue de Tervueren / Tervurenlaan 1150 Brussels Belgium	January 16-17, 2006 at 9:00 a.m.
<b>Bernard Mommens</b>	Marx Van Ranst Vermeersch & Partners 270 Avenue de Tervueren / Tervurenlaan 1150 Brussels Belgium	January 18-19, 2006 at 9:00 a.m.

Dated: September 15, 2005

BERMAN DEVALERIO PEASE  
TABACCO BURT & PUCILLO

/s/ Glen DeValerio  
 Glen DeValerio, BBO # 122010  
 ([gdevalerio@bermanesq.com](mailto:gdevalerio@bermanesq.com))  
 Jeffrey C. Block, BBO #600747  
 Patrick T. Egan, BBO # 637477  
 Nicole R. Starr, BBO #654848  
 One Liberty Square  
 Boston, MA 02109  
 Telephone: (617) 542-8300

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CAULEY BOWMAN CARNEY & WILLIAMS PLLC  
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Little Rock, Arkansas 722125438  
Telephone: (501) 312-8500

**CO-LEAD COUNSEL TO LEAD CLASS  
PLAINTIFFS HANS A. QUAAK, ATTILIO PO  
and KARL LEIBINGER**

LOONEY & GROSSMAN LLP

/s/ Richard J. Grahn  
Richard J. Grahn, BBO #206620  
([rgrahn@lgllp.com](mailto:rgrahn@lgllp.com))  
Charles P. Kindregan, BBO #554947  
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Telephone: (617) 951-2800

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Steven B. Singer  
Erik Sandstedt  
Javier Bleichmar  
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Telephone: (212) 554-1400

**COUNSEL TO PLAINTIFFS STONINGTON  
PARTNERS, INC., STONINGTON CAPITAL  
APPRECIATION 1994 FUND L.P. AND  
STONINGTON HOLDINGS L.L.C.**

PARTRIDGE, ANKNER & HORSTMAN LLP

/s/ Terrence K. Ankner

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George R. Coe  
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Orlando, Florida 32801  
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REED SMITH LLP  
Alan K. Cotler  
Joan A. Yue  
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Philadelphia, PA 10103  
Telephone: (215) 851-8100

**COUNSEL TO PLAINTIFFS JANET BAKER,  
JAMES BAKER, JKBAKER LLC and  
JMBAKER LLC,**

GREGORY P. JOSEPH LAW OFFICES LLC

/s/ Gregory P. Joseph

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([gjoseph@josephnyc.com](mailto:gjoseph@josephnyc.com))  
Third Avenue, 31<sup>st</sup> Floor  
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KOTIN, CRABTREE & STRONG  
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One Bowdoin Square  
Boston, MA 02114  
Telephone: (617) 227-7031

**COUNSEL TO PLAINTIFFS GARY B.  
FILLER and LAWRENCE PERLMAN,  
Trustees of the TRA Rights Trust**

**Exhibit B**

**Butler, Jeff E. (Litigation-NY)**

---

**From:** Patrick Egan [pegan@bermanesq.com]  
**Sent:** Friday, September 01, 2006 11:30 AM  
**To:** Butler, Jeff E. (Litigation-NY)  
**Cc:** Patrick L. Rocco; Avi Josefson; Susan M. Davies; George Coe; Karen Dyer  
**Subject:** RE: Quaak v. Dexia

Jeff:

Thank you for your email concerning your availability. I believe this email will eliminate a need for call.

First, as to letters rogatory, Plaintiffs agree to Dexia's proposal to submit cross-examination questions on the "supplemental questions" by September 8, with translations by September 13. Plaintiffs reserve the right to submit redirect questions on the "supplemental questions" by September 15, and agree that Dexia may submit re-cross by September 18. Plaintiffs further agree that all objections to letters rogatory questions, including objections to form, can be asserted at the time any testimony is offered at trial and that neither party will assert waiver as an argument against any future objections.

Second, as to the depositions, Plaintiffs have noticed Mr. van Helleputte for two-days, and seek to take Mr. Rabaey and Mr. Ferrand, both of whom need their testimony fully interpreted, for up to four days (which would, effectively be two days in English). You have indicated that you will consider making van Helleputte available for the evening of September 19, but not on September 20. As for Messrs. Rabaey and Ferrand, you are only agreeable to make them available on two days, and have yet to propose firm dates.

Plaintiffs are available week of October 9 and will notice Messrs. Rabaey and Ferrand for the "tentative" dates you propose in or to preserve those dates. But, Plaintiffs also intend to file a motion with the Court seeking to extend the time for the depositions.

If I have misstated Dexia's position in any way, please let me know immediately.

Patrick T. Egan  
Berman DeValerio Pease Tabacco Burt & Pucillo  
One Liberty Square  
Boston, MA 02109  
Tel: (617) 542-8300  
Fax: (617) 542-1194

\*\*\*\*\*  
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-----Original Message-----

From: Jeff.Butler@CliffordChance.com  
[mailto:Jeff.Butler@CliffordChance.com]  
Sent: Thursday, August 31, 2006 5:19 PM  
To: Patrick Egan  
Subject: Re: Quaak v. Dexia

Pat: I'm traveling today, but we could talk tomorrow. JB

-----Original Message-----

From: Patrick Egan  
To: Butler, Jeff E. (Litigation-NY)  
Sent: Thu Aug 31 15:51:02 2006  
Subject: Quaak v. Dexia

Jeff:

Are you available later this afternoon at 4:30 for a very short call  
about  
the scheduling of the depositions?

Patrick T. Egan  
Berman DeValerio Pease Tabacco Burt & Pucillo  
One Liberty Square  
Boston, MA 02109  
Tel: (617) 542-8300  
Fax: (617) 542-1194

\*\*\*\*\*  
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contents to any other person.

For further information about Clifford Chance please see our website at  
<http://www.cliffordchance.com> or refer to any Clifford Chance office.

## Exhibit C

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

HANS A. QUAAK, ATTILIO PO  
and KARL LEIBINGER, on behalf of themselves  
and those similarly situated,

Plaintiffs,

v.

DEXIA, S.A. and DEXIA BANK BELGIUM  
(formerly known as ARTESIA BANKING CORP., SA),  
Defendants.

No.: 03-CV-11566 (PBS)

STONINGTON PARTNERS, INC., a Delaware  
Corporation, STONINGTON CAPITAL  
APPRECIATION 1994 FUND L.P., a Delaware  
Partnership and STONINGTON HOLDINGS, L.L.C., a  
Delaware limited liability company,

Plaintiffs,

v.

DEXIA, S.A. and DEXIA BANK BELGIUM  
(formerly known as ARTESIA BANKING CORP., SA),  
Defendants.

No.: 04-CV-10411 (PBS)

GARY B. FILLER and LAWRENCE PERLMAN,  
Trustees of the TRA Rights Trust,  
Plaintiffs,

v.

DEXIA, S.A. and DEXIA BANK BELGIUM  
(formerly known as ARTESIA BANKING CORP., SA),  
Defendants.

No.: 04-CV-10477 (PBS)

JANET BAKER and JAMES BAKER, JKBAKER LLC  
and JMBAKER LLC,

Plaintiffs,

v.

DEXIA, S.A. and DEXIA BANK BELGIUM  
(formerly known as ARTESIA BANKING CORP., SA),  
Defendants.

No.: 04-CV-10501 (PBS)

PLAINTIFFS' AMENDED NOTICE OF DEPOSITIONS  
OF DEFENDANT DEXIA BANK BELGIUM THROUGH  
PETER RABAEG AND BART FERRAND

**TO:** Jeff E. Butler, Esq.  
 (Jeff.Butler@CliffordChance.com)  
 Clifford Chance US LLP  
 31 West 52<sup>nd</sup> Street  
 New York, New York 10019

PLEASE TAKE NOTICE that, pursuant to Rules 26, 29 and 30 of the Federal Rules of Civil Procedure, and prior orders issued by the Court in the above-captioned actions, plaintiffs, by their undersigned counsel, will take the deposition upon oral examination of each of the following persons identified herein, before a notary public, or other person authorized to administer oaths, or as otherwise stipulated by the parties, at the location specified herein, and commencing at the date and time specified herein and continuing day to day thereafter until completion. The depositions will be recorded by stenographic and sound and visual (videotape) means. All parties are invited to attend and to participate in the manner provided for in the Federal Rules of Civil Procedure.

<b>Deponent</b>	<b>Location</b>	<b>Date and Time</b>
<b>Peter Rabaey</b>	Marx Van Ranst Vermeersch & Partners 270 Avenue de Tervueren / Tervurenlaan 1150 Brussels Belgium	October 10-13, 2006 at 9:00 a.m.
<b>Bart Ferrand</b>	Marx Van Ranst Vermeersch & Partners 270 Avenue de Tervueren / Tervurenlaan 1150 Brussels Belgium	October 16-19, 2006 at 9:00 a.m.

Dated: September 6, 2006

BERMAN DEVALERIO PEASE  
TABACCO BURT & PUCILLO

*Glen DeValerio, BBO # 122010 / Pm  
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**CO-LEAD COUNSEL TO LEAD CLASS  
PLAINTIFFS HANS A. QUAAK, ATTILIO PO  
and KARL LEIBINGER**  
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Charles P. Kindregan, BBO #554947  
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**COUNSEL TO PLAINTIFFS STONINGTON  
PARTNERS, INC., STONINGTON CAPITAL  
APPRECIATION 1994 FUND L.P. AND  
STONINGTON HOLDINGS L.L.C.**

PARTRIDGE, ANKNER & HORSTMAN LLP  
Terence K. Ankner, BBO #552469  
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Philadelphia, PA 10103  
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**COUNSEL TO PLAINTIFFS JANET BAKER,  
JAMES BAKER, JKBAKER LLC and  
JMBAKER LLC,**

GREGORY P. JOSEPH LAW OFFICES LLC

Susan M. Davies / pm

Gregory P. Joseph, N.Y. Atty Reg. #1645852  
Susan M. Davies, N.Y. Atty Reg. #2413508  
([sdavies@josephnyc.com](mailto:sdavies@josephnyc.com))  
Third Avenue, 31<sup>st</sup> Floor  
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KOTIN, CRABTREE & STRONG  
Amy C. Mainelli, BBO #657201  
One Bowdoin Square  
Boston, MA 02114  
Telephone: (617) 227-7031

**COUNSEL TO PLAINTIFFS GARY B.  
FILLER and LAWRENCE PERLMAN,  
Trustees of the TRA Rights Trust**

**Certificate of Service**

I hereby certify that on September 6, 2006, I caused a true copy of the foregoing *Plaintiffs' Amended Notice of Depositions of Defendant Dexia Bank Belgium Through Peter Rabaey and Bart Ferrand* dated September 6, 2006 to be served by electronic mail and First Class Mail, postage prepaid, upon the following Counsel of Record at the electronic and postal addresses indicated below:

Jeff E. Butler, Esq. ([Jeff.Butler@cliffordchance.com](mailto:Jeff.Butler@cliffordchance.com))

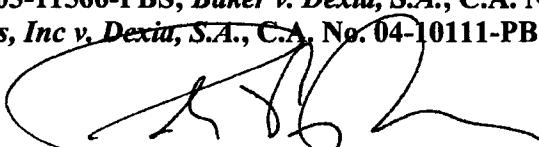
Maryana A. Kodner, Esq. ([Maryana.Kodner@cliffordchance.com](mailto:Maryana.Kodner@cliffordchance.com))

Clifford Chance US LLP

31 West 52nd Street

New York, NY 10019

**Counsel for Dexia Bank Belgium in *Filler v. Dexia, S.A.*, C.A. No. 04-10477-PBS;  
*Quaak v. Dexia, S.A.*, C.A. No. 03-11566-PBS; *Baker v. Dexia, S.A.*, C.A. No. 04-10501-PBS, *Stonington Partners, Inc v. Dexia, S.A.*, C.A. No. 04-10111-PBS**



Patrick L. Rocco

## Exhibit D



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485 SEVENTH AVENUE • SUITE 1000 • NEW YORK • NEW YORK • 10018

TELEPHONE  
(212) 239-4340

FAX  
(212) 239-4310

September 6, 2006

WEB  
[WWW.LAWSSB.COM](http://WWW.LAWSSB.COM)

EMAIL

***Via Electronic & Regular Mail***

Jeff E. Butler, Esq.  
Clifford Chance US LLP  
31 West 52<sup>nd</sup> Street  
New York, NY 10019-6163

Re: *Quaak, et al. v. Dexia SA, et al.*, No. 03-Civ-11566 (PBS)  
*Stonington Partners, Inc. v. Dexia, S.A.*, No. 04-CV-10411-PBS  
*Filler v. Dexia, S.A.*, No. 04-CV-10477-PBS  
*Baker v. Dexia, S.A.*, No. 04-CV-10501-PBS

Dear Jeff:

We write on behalf of all Plaintiffs in the four above-captioned actions against Dexia Bank Belgium ("Dexia"). Enclosed please find Deposition Notices for Peter Rabaey and Bart Ferrand on behalf of all Plaintiffs in those actions. In light of your representation that both Mr. Rabaey and Mr. Ferrand will need full translations of all of the questions and answers at their depositions, these depositions are being noticed for four days each. While you previously agreed to produce each of these witnesses only for two days of examination, you informed us last Friday that Dexia is now unwilling to produce either of these witnesses for *any* duration if Plaintiffs seek more than two days of examination. Plaintiffs will not agree in advance of these depositions to artificially limit the time needed for a fair examination. Moreover, as demonstrated below, we do not intend to file any motion to extend the examination period because no such motion is necessary.

On September 15, 2005, Plaintiffs originally noticed both of these depositions for two days with the express provision that they shall continue from day to day until finished. At that time, we were not aware that these witnesses would testify exclusively through an interpreter. After you refused to produce these witnesses we moved for an order compelling their depositions. You unsuccessfully opposed that motion without ever disputing the duration of either of those depositions. On July 10, 2006, Judge

SHALOV STONE &amp; BONNER LLP

Collings held that these witnesses were “managing agents” of Dexia within the meaning of Rule 30 and ordered Dexia to produce both Mr. Rabaey and Mr. Ferrand for deposition in each of the above-captioned cases.

You have insisted during our meet-and-confer sessions that Plaintiffs in these four separate and voluntarily coordinated actions are entitled only to one 7-hour deposition of Mr. Rabaey and Ferrand.<sup>1</sup> However, the Federal Rules clearly allow for a 7-hour deposition of each of these witnesses in *each* of these four separate actions. Notably, Judge Collings has never altered these limitations. Moreover, Judge Saris has already expressed her view in the related *In re Lernout & Hauspie Speech Products Securities Litigation* that a four-day limitation on depositions of a party’s witnesses is appropriate.

Moreover, because these depositions will be fully translated, the noticed time period of four days is equal to substantially less than a two-day (14-hour) deposition conducted in English. Thus, these four days of depositions are, in fact, less than half of the total amount of time that Plaintiffs are entitled to in their four respective actions. This time is necessary for these two witnesses because Plaintiffs must cover Messrs. Rabaey’s and Ferrand’s extensive involvement in almost every transaction at the heart of the fraud allegations set forth in all of the complaints. Further, the *Stonington, Filler, and Baker* Plaintiffs must also examine those witnesses on their involvement in the Dragon and Dictaphone transactions.

Accordingly, please be advised that we will appear in Belgium on the dates noticed to take these depositions. If you refuse to produce these witnesses on the dates noticed, or seek to terminate the depositions prematurely, we will move to hold Dexia in contempt of the Court’s July 10, 2006 order and will seek all appropriate sanctions up to and including a default judgment.

In addition, we have noticed the deposition of Mr. van Helleputte for two days, on September 19 and 20, 2006. You have previously indicated that you are not willing to make Mr. van Helleputte available for a second day of questioning. This is unacceptable. For the reasons set forth above, plaintiffs are clearly entitled under both the Court’s

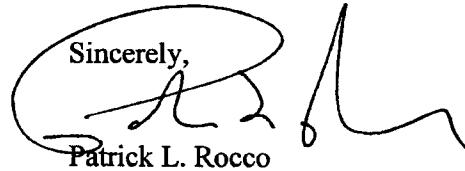
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<sup>1</sup> By agreeing to two days for each of these depositions you have implied that a fully interpreted deposition for two days equals a one-day deposition taken in English. This, however, is not the case. In fact, in this case thus far, fully translated two-day depositions have yielded substantially less testimony than one-day depositions conducted in English. By way of example, Plaintiffs deposed Dexia employee Bernard Mommens in English for one day, resulting in a 352 page transcript. By comparison, two-day depositions conducted through an interpreter have resulted in much shorter transcripts: Probst (228 pages total), Piret (264 pages total), Van Reit (221 pages total). Thus, even if Dexia’s erroneous view were correct that Plaintiffs were entitled to only one 7-hour deposition of each witness, the two-day duration that Dexia is willing to agree to does not even satisfy that limitation.

SHALOV STONE & BONNER LLP

orders and the Federal Rules of Civil Procedure to at least this amount of time. Accordingly, if Dexia fails to produce Mr. Van Helleputte on the dates Plaintiffs have noticed, or seeks to end his deposition prematurely, Plaintiffs will move to hold Dexia in contempt of the Court's July 10 Order, and will seek all appropriate sanctions.

Finally, as to the letters rogatory issue, we are not willing to withdraw any of the questions submitted and invite you to file your motion. Obviously, in light of our failure to reach a compromise, Plaintiffs will maintain our position that Dexia has waived all objections to the questions submitted by Plaintiffs.

Sincerely,  
  
Patrick L. Rocco

[Enclosure]

cc: Peter M. Saparoff, Esq. (via electronic mail)  
Patrick Egan, Esq. (via electronic mail)  
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Steven Singer, Esq. (via electronic mail)

**Exhibit E**

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

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IN RE: : Civil Action  
LERNOUT & HAUSPIE : Nos. 00-11589-PBS,  
SECURITIES LITIGATION : 02-10302, 02-10303  
and : and 02-10304  
CONSOLIDATED AND : Courtroom No. 13  
RELATED CASES : 1 Courthouse Way  
: Boston, MA 02210-3002  
: 3:30 p.m. Thursday  
: February 13, 2003

SCHEDULING CONFERENCE

Before: THE HONORABLE PATTI B. SARIS,  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

Shalov, Stone & Bonner, (by Patrick L. Rocco, Esq.),  
485 Seventh Avenue - Suite 1000, New York, NY 10018,  
on behalf of the Class Plaintiffs.

Berman, DeValerio, Pease, Tabacco, Burt & Pucillo  
(by Glen DeValerio, Esq. and Patrick T. Egan, Esq.),  
One Liberty Square, Boston, MA 02109,  
on behalf of the Class Plaintiffs.

Gregory P. Joseph Law Offices, (by Gregory P. Joseph, Esq.),  
805 Third Avenue, 31st Floor, New York, NY 10022,  
on behalf of the Filler Plaintiffs.

Bernstein, Litowitz, Berger & Grossmann LLP,  
(by Steven Singer, Esq.),  
1285 Avenue of the Americas, New York, NY 10019,  
on behalf of the Stonington Plaintiffs.

Marie L. Cloonan  
Federal Court Reporter  
1 Courthouse Way - Room 5209  
Boston, MA 02210 - 617-439-7086  
Mechanical Steno - Transcript by Computer

1 doing is, I'll be able -- we'll have every document in this  
2 case on line and you'll be able to click from your office  
3 and download anything that's happened in the case. And,  
4 also, you'll be able to serve on computer through your  
5 e-mail addresses. And, also, when I write and endorse in a  
6 margin, I'll probably do it from my office and click and  
7 docket it and it goes right to you. So, pretty soon, this  
8 is going to be a paperless case.

9 Unfortunately, this is such a huge case, we haven't  
10 scanned every single document to date. And I don't know how  
11 much it would cost, or -- you should look into it, to  
12 putting all the documents on a CD-Rom so you can all get  
13 everything. And you may want to talk to your systems people  
14 about that.

15 Now, on depositions, we have a local rule that may  
16 not fly here, which is seven hours per deposition. That may  
17 not work.

18 On the other hand, I think, in fairness, we  
19 shouldn't demand three weeks out of every person. So, I  
20 think there should be some ground rules as to what we're  
21 talking about. I understand that the four -- no offense --  
22 lead defendants in this are taking the Fifth. Right?

23 MR. DeVALERIO: At this point.

24 MR. FEEHERRY: Well, at this point, your Honor.  
25 But, by the same token, we've made it clear that -- and

1 that's why we were hoping that we could talk about stage  
2 discovery that would be documents followed by depositions.  
3 And I'm hoping that you're still -- as you're working with  
4 the schedule -- willing to go in that direction.

5 THE COURT: Basically, everything will be turned  
6 over. And my hope is that whatever other document requests  
7 there are is going to be cleanup. There's automatic  
8 disclosure. People should be turning everything over. And  
9 that includes the lead defendants, unless they take the  
10 Fifth to it and, then, I'll have to have it litigated as to  
11 whether they have the right to do that. At least -- well, I  
12 don't remember the answer, I'll say. I sure don't know it  
13 under Belgian law.

14 MR. DeVALERIO: With regard to depositions, your  
15 Honor, what I would suggest is that when the plaintiffs  
16 notice a deposition, that they give a proposal to the  
17 defendants for the amount of time that they are proposing  
18 for that particular witness and, then, it can be discussed.  
19 And if it can't be resolved, it will either be the  
20 Magistrate or the special master that will have to.

21 THE COURT: Yes and no. Yes, I'm happy to do that.  
22 But, in fairness to these individual people, there may be  
23 people not represented by counsel. And I can't assume that  
24 everyone is willing to give you three weeks of their time.

25 MR. DeVALERIO: Well, I -- in all honesty, your

1 Honor, I think I can speak for the plaintiffs. We have no  
2 plans to do anything like that in terms of weeks of depo  
3 testimony.

4 THE COURT: Yes. But, there are people here who --  
5 I mean, there may be people like lower level people at  
6 Lernout. I can't know. I mean, people who aren't named  
7 parties of KPMG. I mean, I'm assuming there are a fair  
8 number of people you didn't sue. Although, maybe that's the  
9 wrong assumption.

10 (Laughter.)

11 THE COURT: I haven't any more Motions to Dismiss  
12 flowing in.

13 My presumption is this: that, at most, it should be  
14 someone who is not named a party in this case, represented  
15 by counsel, is going to fight for them. It's two days per  
16 side. So, you'll just have to work it out among you.

17 Now, with respect to people who -- people just have  
18 lives, and it should not go over four days for somebody,  
19 four days of seven hours, not including bathroom breaks or  
20 lunch, should be enough for most people. You can't ask more  
21 of that.

22 So, you should be choosing lead plaintiffs, lead  
23 defendants. Of course, all depositions and all discovery  
24 counts in all cases.

25 Now, let me ask you one last question. When do we